

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA	:	
	:	1:16CR140-1
v.	:	
	:	
KUO HSIUNG YANG	:	

FACTUAL BASIS

NOW COMES the United States of America, by and through Ripley Rand, United States Attorney for the Middle District of North Carolina, and as a factual basis under Rule 11, Fed. R. Crim. P., states the following:

A website named "Playpen" operated on a network (the Network") and was available to Internet users who were aware of its existence. Playpen was a child pornography bulletin board and website dedicated to the advertisement and distribution of child pornography and the discussion of matters pertinent to the sexual abuse of children.

The Network was designed specifically to facilitate anonymous communication over the Internet. In order to access the Network with its full anonymization benefits, a user simply must download and install publicly available software. Using the Network prevents someone attempting to monitor an Internet connection from learning what sites a user visits and prevents the sites the user visits from learning the user's Internet protocol ("IP") address. The Network's software masks users' identities by bouncing their communications

around a distributed network of relay computers run by volunteers all around the world. Thus, traditional IP address location identification techniques are not viable.

Playpen could not generally be accessed through the traditional Internet. Only a user who had installed the Network software on his computer could access Playpen. Even after connecting to the Network, a user had to know the exact web address of Playpen in order to access it. Websites on the Network are not indexed in the same way as websites on the traditional Internet. Accordingly, a user could not simply perform a Google search for "Playpen" to obtain the web address. Rather, a user had to have obtained the web address directly from another source, such as other users of Playpen, or from online postings describing both the sort of content available on Playpen and its precise location.

On or about February 20, 2015, the computer server hosting Playpen was seized by law enforcement from a web-hosting facility in Lenoir, North Carolina. Law enforcement transported the server to Newington, Virginia and allowed the website to remain active from February 20, 2015 until March 4, 2015. Between February 20, 2015 and March 4, 2015, law enforcement agents acting pursuant to an order of the United States District Court for the Eastern District of Virginia monitored the users of Playpen.

Before, during, and after its seizure, law enforcement agents viewed, examined and documented the contents of Playpen. According to statistics posted on the site, Playpen contained a total of 117,773 posts and 10,622 total topics as of March 4, 2015. The website appeared to have been operating since approximately August 2014, which is when the first post was made on the message board.

At the time the website was seized, an image depicting a prepubescent female wearing a short dress and black stockings posed sitting reclined on a chair with her legs crossed in a sexually suggestive manner was displayed on the main page of the website. Underneath the image was text stating, "No cross-board reposts, .7z preferred, encrypt filenames, include preview, Peace out." "[N]o cross-board reposts" refers to a prohibition against material that is posted on other websites from being "re-posted" to Playpen, and ".7z" refers to a preferred method of compressing large files or sets of files for distribution. Two data-entry fields with a corresponding "Login" button were located to the right of the website name. Located below the aforementioned items was the message, "Warning! Only registered members are allowed to access the section. Please login below or 'register an account' [(a hyperlink to the registration page)] with Playpen." Below this message was the "Login" section, consisting of four data-entry fields with the corresponding text,

"Username, Password, Minutes to stay logged in, and Always stay logged in."

Upon accessing the "register an account" hyperlink, there was a message that informed users that the forum required new users to enter an email address that looks to be valid. However, the message instructed members not to enter a real email address. The message went on to warn the user "[F]or your security you should not post information here that can be used to identify you." The message further detailed rules for the forum and provided other recommendations on how to hide the user's identity for the user's own security.

After successfully registering and logging into the site, the user could access any number of sections, forums, and sub-forums. Some of the sections, forums, and sub-forums available to users included: (a) How to; (b) General Discussion; (c) Playpen information and rules; and (d) Security & Technology discussion. Additional sections, forums, and sub-forums included (a) Jailbait - Boy; (b) Jailbait - Girl; (c) Preteen - Boy; (d) Preteen - Girl; (e) Pre-teen Videos - Girl HC; (f) Pre-teen Videos - Boys HC; (g) Toddlers; and (h) Kinky Fetish - Scat. A review of topics within the forums revealed that the majority contained discussions about and numerous images depicting child pornography and child erotica.

A list of members, which was accessible after registering for an account, revealed that approximately 100 users made at least 100 posts to one or more of the forums. Approximately 31 of these users made at least 300 posts. In total, Playpen contained thousands of postings and messages containing child pornography images. Playpen also included a feature referred to as "Playpen Image Hosting." This feature allowed users to upload links to images of child pornography that were accessible to all other registered users. Text sections of Playpen provided forums for discussion of methods and tactics to use to perpetrate child sexual abuse.

On February 20, 2015, the same date the website was seized, the United States District Court for the Eastern District of Virginia authorized a search warrant to allow law enforcement agents to deploy a Network Investigative Technique ("NIT") on Playpen in an attempt to identify the actual IP addresses and other identifying information of computers used to access Playpen. Pursuant to that authorization, between February 20, 2015, and approximately March 4, 2015, each time any user or administrator logged into Playpen by entering a username and password, the Federal Bureau of Investigation ("FBI") was authorized to deploy the NIT which would send one or more communications to the user's computer. Those communications were designed to cause the user's computer to deliver to a computer, known to or controlled by the government, data that would help identify

the user's computer, its location, other information about the computer, and the user of the computer accessing Playpen.

According to data obtained by law enforcement, a user with the username "ilovewine" engaged in activity on Playpen. The profile page of user "ilovewine" indicated this user originally registered an account on February 24, 2015. According to the statistics section of the user's profile, "ilovewine" was actively logged into the website for a total of over seven hours between the dates of February 24, 2015 and March 3, 2015. During this time, the user "ilovewine" accessed threads in the "Girls" and "Girls-HC" forums. The titles of some of the threads accessed by the user are as follows:

- "10yo with BIG Vibrator ! incl.Sound ! Hot !"
- "6yo girl masturbating with a toothbrush and gets fucked, with cum and sound."
- "11 yo fucked to creampie"
- "9 yo fuck (not know the name)"
- "13yo Russian girl gagnbang in summer camp"
- "14yo Thai girl GENTLY bound/gagged then fully penetrated balls deep fucked."
- "Man fuck preteen Latina girl"
- "pthe 2011 dad fuck daughter 13y"

On March 1, 2015, at 4:43 p.m. ESD, the user "ilovewine" was using Playpen and the NIT captured the user's IP address and The name of the active user account, "khyang".

According to information received from Time Warner Cable, the IP address was assigned to KUO HSIUNG YANG residing at an apartment complex in Carrboro, North Carolina. On October 27, 2015, FBI Task Force Office ("TFO") Kevin Norman met with a representative of the apartment complex. TFO Norman learned that YANG moved out of the apartment complex on or about July 26, 2015. According to the apartment representative, YANG had been the sole occupant of his apartment and had provided the management company with a forwarding address of an apartment located in Chapel Hill, North Carolina. The apartment representative positively identified YANG in a North Carolina Department of Motor Vehicles photo.

On November 5, 2015, Federal Magistrate Judge Joe Webster issued a warrant authorizing the search of YANG'S Chapel Hill apartment. TFO Norman and other law enforcement personnel executed the warrant on November 12, 2015. YANG was the sole occupant of the apartment. Numerous electronic devices and storage mediums containing child pornography, as defined in Title 18, United States Code, Section 2256(8)(A), were recovered from YANG'S apartment. These items included a red Verbatim 16GB USB drive, a RaidMax custom mini-computer, a Rosewill network attached storage device, a "Mini-Box" computer connected to a Vizio TV, a Seagate 40GB external hard drive, and 13 Blu-ray discs.

FBI TFO Christopher Chappell performed a digital forensic analysis of these items. On the red Verbatim 16GB USB drive, TFO Chappell observed evidence related to the use of the Network, a text document containing web addresses to known child pornography websites including Playpen, child pornography files in a folder titled "Downloads" with created-on dates from February 24, 2015 to March 4, 2015, and at least four child pornography videos with created-on dates and times that corresponded with user "ilovewine" clicking on a hyperlink displayed below a preview storyboard of the video on Playpen.

In total, TFO Chappell observed or recovered 48,056 images and 2,127 videos of child pornography from the electronic devices and storage mediums seized from YANG'S apartment. The earliest created-on date of any such contraband was April 7, 2009. TFO Chappell also discovered that the following terms had been searched for using

a Google web browser: "12 year old tits", "5th grade girls", "asia sex tourism", "anonymous proxy", and "jenny 9yo"¹.

This the 3rd day of June, 2016.

Respectfully submitted,

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¹ The "Jenny" Series is a known and highly trafficked series of child pornography.

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CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2016, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Amos G. Tyndall, Esq.

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